

ESTTA Tracking number: **ESTTA671830**

Filing date: **05/12/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215813
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Date	05/12/2015
Attachments	Opposer's Opposition to Applicant's Motion to Amend Answer To Second Amended Notice of Opposition-with Exhibits.pdf(811008 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NAJAT KANACHE AND CRYSTALLINE MANAGEMENT, LLC, Opposers, v. INTERNATIONAL PASTRY CONCEPTS LLC AND DOMINIQUE ANSEL, Applicants.	Serial No.: 85/936,327 Filed: April 8, 2014 Published for Opposition: December 10, 2013 Mark: CRONUT Opposition No.: 91215813
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**OPPOSERS' OPPOSITION TO APPLICANTS' MOTION TO AMEND ANSWER
TO SECOND AMENDED NOTICE OF OPPOSITION**

Opposers Najat Kaanache and Crystalline Management, LLC ("Opposers") respectfully submit this Memorandum of Law in Opposition to Applicants' International Pastry Concepts LLC and Dominique Ansel ("Applicants") motion to amend their answer to the Opposers' Second Amended Notice of Opposition.

I. Introduction

This opposition has been pending for over a year and has proceeded well into discovery. Now, Applicants, through their recently appearing co-counsel, seek to amend their answer to Opposers' second amended notice of opposition. Because such amendment is unnecessary in view of the Board's order dated December 16, 2014 ("12-16-14 Order"), striking certain defenses, and because it would prejudice Opposers, the motion to amend should be denied.

II. Legal Standard to Amend

"Pleadings in an opposition proceeding . . . may be amended in the same manner and to the same extent as in a civil action in a United States district court." 37 C.F.R. § 2.107(a).

Because the time period for amending as a matter of course has long expired, and Opposers do not consent to the amendment, leave of the Board is required for Applicants to amend their responsive pleading. Fed. R. Civ. P. 15(a)(2); TMBP § 507.02.

Rule 15(a)(2)'s statement that leave should be "freely give[n] when justice so requires" acknowledges that leave to amend should not be granted automatically, but rather must take into account whether the proposed amendment "would violate settled law or be prejudicial to the rights of the adverse party or parties." TMBP § 507.02. When it is apparent that there has been, *e.g.*, "undue delay, bad faith or dilatory motive on the part of the movant, undue prejudice to the opposing party by virtue of the allowance of the amendment, [or] futility of amendment," leave to amend should be denied. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

III. Leave to Amend Should Be Denied

In ruling upon Applicants' second Rule 12(b)(6) motion, the Interlocutory Attorney found that Opposers had sufficiently pleaded each of their five claims. (12-16-14 Order at 4-10.) The Interlocutory Attorney also considered each of the "affirmative defenses" pleaded in Applicants' Amended Answer. While the Interlocutory Attorney determined that many of Applicants' "affirmative defenses" should be stricken for failing to allege a plausible claim for relief, the Interlocutory Attorney determined that Applicants' "Third Affirmative Defense – Acquired Distinctiveness," was "merely an amplification of Applicants' denials with respect to Opposers' descriptiveness claim, and provides fuller notice of how Applicants intend to defend this opposition." (12-16-14 Order at 12.) The Interlocutory Attorney further held that while this "is not an appropriate defense, the Board does not find it necessary to strike this language from the Answer." (*Id.*) Similarly, as to Applicants' "Sixth Affirmative Defense – Opposers' Use is Generic & Descriptive," the Interlocutory Attorney held that while it was not an appropriate defense, "Applicants are left to their proofs on this assertion." (*Id.* at 14.) Applicants' First,

Second, Fourth, Seventh, Eighth, and Ninth Affirmative Defenses were each **stricken**, to be given no further consideration by the Board.

Applicants now move, bizarrely, to strike two of the affirmative defenses in its Answer. Applicants' proposed amended pleading is bizarre because it does not bother to remove from the proposed amended pleading those allegations that were already stricken as legally insufficient or improper, but instead would strike only the "Acquired Distinctiveness" and "Opposers' Use is Generic & Descriptive" allegations, which were pleaded as Applicants' Third and Sixth "affirmative defenses," respectively.¹ Thus, contrary to Applicants' assertion that their intention is not to "re-plead an insufficient claim," the proposed amended pleading does exactly that. (Paper No. 22, Mot. to Amend, at 4.) And to the extent the proposed amended pleading re-asserts those legally insufficient "affirmative defenses," the proposed amendment is futile and should be denied.

More significantly, however, Opposers would be prejudiced by the striking of Exhibit 5 to the Amended Answer and Affirmative Defenses from Applicants' operative pleading because, as Applicants note in their moving brief, "[o]nce an amended pleading is interposed, the original pleading no longer performs any function in the case." (Paper No. 22, Mot. to Amend, at 2.) Applicants' "acquired distinctiveness" allegations state that "Applicants have received accolades" from various news outlets, and that support of the "goodwill, distinctiveness, and secondary meaning can be found in the document attached hereto as Exhibit 5." (Applicants' Answer to Second Amended Notice of Opposition at 5-6.) Exhibit 5 to Applicants' November 6,

¹ Applicants' proposed amendments to the caption and the identification of counsel in the introductory paragraph of the proposed amended second answer, which are the only changes proposed with respect to the "Answer" portion of Applicants' proposed responsive pleading, are not opposed by Opposers, but neither are they legally necessary in light of Applicants' new counsel's entrance of appearance, filed March 30, 2015 (Paper No. 20).

2014 pleading is a printout of a July 26, 2013 article published in the *Financial Times* entitled “Crème de la crème puff: What the Cronut and the Birkin have in common,” by Vanessa Friedman (attached hereto as Exhibit A), which uses “cronut” generically. Opposers intend to rely on Exhibit 5 in this proceeding, and will be prejudiced if it is omitted from the operative pleadings in this case because the taint of that document which Applicants previously embraced and now wish to jettison will be removed if their motion is granted. Moreover, if Applicants’ motion is granted, less notice will be given to Opposers about Applicants’ position in this case than the fuller notice the Interlocutory Attorney noted was afforded Opposers by the Affirmative Defenses. (12-16-14 Order at 12.)

Opposers have also taken discovery pertaining to the “affirmative defenses” that Applicants now seek to strike from their own pleading. *See, e.g.*, Exhibit B hereto, Applicants’ Objections and Responses to Opposers’ First Set of Document Requests, at Request No. 31 (“All documents supporting or negating Applicants’ ‘Third Affirmative Defense – Acquired Distinctiveness.’”); Request No. 33 (“All documents supporting or negating Applicants’ ‘Sixth Affirmative Defense – Opposers’ Use is Generic & Descriptive.’”); Exhibit C hereto, Applicants’ Objections and Responses to Opposers’ First Set of Interrogatories, at Interrogatory No. 13 (“Set forth in detail all facts and reasons supporting Applicants’ assertion in their Sixth Affirmative Defense to the Second Amended Notice of Opposition that CRONUTS as applied to Opposers’ goods is generic or, alternatively, descriptive.”). Applicants objected to these requests on the basis that it intended to withdraw its Third and Sixth “affirmative defenses,” despite observing that the Board had found those allegations to be “an amplification of Applicants [sic] denials.” (Exhibit B, Response to Request No. 31.) Given that Applicants have put these allegations at issue, and the matter has properly become the subject of duly propounded

discovery requests, the material that Applicants now move to strike from their pleading should remain fair game for discovery. (*See* Mot. to Amend at 4, n.1 (“[I]t is unreasonable to assume that Applicants argued that their own affirmative defenses were invalid.”).)

IV. Conclusion

If Applicants truly sought to “streamline the pleadings” (*id.* at 1) or “streamline this litigation” (*id.* at 3), they would have moved to amend their responsive pleading to remove the plurality of “affirmative defenses” that the Board has already held are legally deficient, rather than moving to amend to strike *only* those allegations that the Board held “provides further notice” to Opposers. Instead, they seek to remove from their pleading an exhibit that supports Opposers’ position, while proposing no other substantive changes to their pleading. While Opposers are not necessarily prejudiced by the *timing* of Applicants’ motion to amend, they are prejudiced by the *substance* of it. The motion to amend should be denied.

Dated: May 13, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSERS' OPPOSITION TO APPLICANTS' MOTION TO AMEND ANSWER TO SECOND AMENDED NOTICE OF OPPOSITION and exhibits** was served on May 12, 2015 by first class mail, postage prepaid, in an envelope addressed to Applicants' counsel as follows:

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EXHIBIT A

EXHIBIT 5

FINANCIAL TIMES

Home UK World Companies Markets Global Economy Lex Comment Management Personal Finance

July 26, 2013 7:15 pm

Crème de la crème puff



By Vanessa Friedman

What the Cronut and the Birkin have in common



Dominique Ansel at work

Regular readers will know that every once in a while I like to pause for a moment from tracking the visual economy and think, instead, about another phenomenon I call the fashionisation of life. This is the tendency of those outside the fashion industry to apply its principles to their own products, whatever they may be.

I'm talking about industries such as technology, publishing – even the bicycle business – that have become, on one level or another, accessory industries. The latest example of the trend is the food industry.

Before you say anything, yes, I know there are fashions in food but that is not the same thing as food treated like fashion. For the former, see anything from sushi to fusion to Tex-Mex. For the latter, I give you the cronut.

For anyone who didn't read last week's travel pages, the cronut is a breakfast pastry invented by French chef Dominique Ansel and sold from his bakery in New York's SoHo. These doughnut/croissant hybrids filled with cream cost \$5 each.

Sign up now

Tales of queues for cronuts, the cronut black market, and the various wannabe cronuts are now legendary. Cronuts are trending on Twitter. As a Tiffany collection was unveiled last week in New York, cronuts were displayed for visitors with the same fanfare as a \$1.5m diamond ring.

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Does this sound familiar to you?

Note, I am speaking not to consumers of food but to consumers of fashion, who should recognise the above markers in the time it takes to say, "Object of desire". The key to understanding the cronut phenomenon is not to think of it as a comestible at all but to think of it as an It bag.

In many ways, the cronut reminds me of an Hermès Birkin bag. US Vogue acknowledged this overtly, tweeting: "Our favourite French imports – the ring, the shoe, the bag, the dress, and, of course, the cronut."

Consider the bakery's online description of the cronut: "Taking 2 months and more than 10 recipes, Chef Dominique Ansel's creation is not to be mistaken as simply croissant dough that has been fried. Cronuts™ are made fresh daily, and completely done in house. The entire process takes up to 3 days."

It is original! It is a secret! It's all about hand work and effort!

Of course, hand work is a basic tenet of the luxury industry, because it both justifies a high price, and because it connects a contemporary product to the idea of tradition and human creation, which in turn bestows brand equity (as Hermès well knows). Hand work also creates another reality, that by necessity only a certain number can be made. Exclusivity, of course, is yet another defining principle of luxury. As is scarcity. Something is special because not everyone can get it.

...

But that's just the beginning. Each month a new, single flavour of cronut is released – June was lemon maple, this month is blackberry, next month has not been revealed. This gives customers a reason to come back every few weeks and own the bragging rights of being one of the few to have tasted every flavour. Ask any analyst, and they will tell you a similar strategy of flash sales – promising now-you-get-it, tomorrow-you-won't – has been responsible for Prada's success in Asia.

The bakery also has instructions about the ritual of eating, and even cutting, a cronut; do it wrong, and you screw up the whole thing. In other words, only people who really understand the art of these treats will fully appreciate them.

Finally, there is the trademark. Unlike the last food fashion, the cupcake, the cronut has officially been registered as intellectual property; cupcakes, by contrast, are a general food item that a variety of different people elevated into a fad.

This creates a situation where people are seduced into obsession, thanks to what behavioural scientist and Harvard Business School professor Francesca Gino calls "selfsignalling". This is the willingness to go to what seems like risible lengths to secure an object because the process of doing so demonstrates that they are imbued with certain qualities they hold dear, which in this case is insidership and an understanding of value. It's the same urge that underpins the entire luxury industry; as various executives I talk to always say, they aren't selling anything anyone needs, so they have to sell "the dream".

It's a genius move. By transforming a breakfast pastry into a luxury, Ansel has made it transcend the whole concept of food and – let's be honest – fat. I mean, the thing is a quazillion calories and – in a world where governments are trying to legislate the listing of nutritional content, and magazines are under fire for using too-skinny models – no one cares. That's rich, in every sense of the word.

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More columns at www.ft.com/friedman

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EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Najat Kaanache and
Crystalline Management, LLC,**
Opposers,

v.

**International Pastry Concepts LLC
and Dominique Ansel,**
Applicants.

Opposition No.: 91215813
Application Serial No.: **85/936,327**

Date of Publication: December 10, 2013
Mark: **CRONUT**

**APPLICANTS INTERNATIONAL PASTRY CONCEPTS LLC AND
DOMINIQUE ANSEL'S OBJECTIONS AND RESPONSES TO OPPOSERS'
FIRST SET OF DOCUMENT REQUESTS TO APPLICANTS**

Pursuant to Rules 26(b) and 34 of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.120, and TBMP § 406, Applicants International Pastry Concepts LLC ("IPC") and Dominique Ansel ("Ansel") (collectively, "Applicants"), by and through undersigned counsel, hereby object and respond to Opposers Najat Kaanache ("Kaanache") and Crystalline Management, LLC's ("Crystalline") (collectively, "Opposers") First Set of Document Requests.

GENERAL OBJECTIONS

1. Applicants object to these Requests to the extent they seek information that is beyond the permissible scope of discovery allowable under the Federal Rules of Civil Procedure and/or the Rules of the Trademark Trial and Appeal Board.

2. Applicants object to these Requests to the extent they incorporate definitions or rules of construction that differ from those set forth in the Federal Rules of Civil Procedure and/or the Rules of the Trademark Trial and Appeal Board.

3. Applicants object to the definition of “documents” as unduly burdensome, unreasonably cumulative and duplicative, and not likely to lead to the discovery of admissible evidence.

4. Applicants object to these Requests to the extent they call for answers that reflect or constitute in full or in part a privileged communication between Attorney and Client (“Privilege Objection”). Applicants do not intend by these responses to waive any claim of privilege or immunity. Applicants’ responses are conditioned specifically on the understanding that the production of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

5. Applicants object to these Requests to the extent they call for answers which have been prepared or obtained in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants (“Work Product Objection”). Applicants do not intend by these responses to waive any claim of privilege or immunity. Applicants’ responses are conditioned specifically on the understanding that the production of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

6. Applicants object to these Requests to the extent they call for Applicants to take action other than (i) a reasonable and thorough search for documents maintained in Applicants’ possession, custody, or control and in locations where such information is most likely to be found; and (ii) a reasonable and thorough inquiry of those persons presently employed by Applicants most likely to have knowledge or information responsive to these Requests. Applicants further object to these Requests to the extent they call for documents that are not available to Applicants or are equally available to Opposers (“Harassment Objection”).

7. Applicants object to these Requests to the extent that they seek (i) information that is not within the applicable scope of discovery in this action; or (ii) information that is not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence (“Scope Objection”).

8. Applicants object to these Requests to the extent they are overly broad, overly inclusive, and/or call for extensive research or investigation that would subject Applicants to annoyance, embarrassment, oppression, or undue burden or expense (“Burden Objection”).

9. Applicants object to these Requests to the extent they are vague, indefinite, uncertain, and/or ambiguous and cannot be reasonably answered without further clarification (“Vagueness Objection”).

10. Applicants object to these Requests to the extent they seek proprietary or confidential business information of Applicants or call for information that Applicants may not disclose without the consent of third parties. Applicants will only provide such information pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order (“Confidentiality Objection”).

11. Applicants object to these Requests to the extent they call for legal conclusions (“Legal Conclusion Objection”).

12. Applicants object to these Requests to the extent they seek discovery that is unreasonably cumulative or duplicative of other discovery produced, or that will be produced, by Applicants in this matter (“Duplicative Objection”).

13. A statement that Applicants will produce documents responsive to a Request does not mean that any documents responsive to that Request exist and/or are in Applicants’ possession, custody, or control.

14. Applicants object to these Requests to the extent they are unlimited in time or otherwise not limited to a time frame relevant to this litigation, and thus overbroad, unduly burdensome, and seek information that is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence.

15. Applicants reserve the right to modify, supplement, and/or amend any or all of its responses and objections to these Requests.

16. The responses to these Requests are made without in any way waiving, but rather, intending to preserve and preserving (i) all objections by Applicants as to competency, relevancy, materiality, and admissibility of the answers or the subject matter thereof; (ii) all rights of Applicants to object on any grounds to use of said responses, or the subject matter thereof in any proceeding, including the hearing or trial of this or any other action; and (iii) all rights of Applicants to object on any grounds to requests for further responses to these or any other requests or other discovery requests, involving or relating to the subject matter of these Requests.

17. Applicants make no incidental or implied admissions of fact by responding to these Requests. The fact that Applicants respond herein may not be taken as an admission that Applicants accept the existence of any fact set forth or assumed by these Requests, or that such response constitutes admissible evidence. The fact that Applicants respond to all or part of a Request is not intended, shall not be construed, and shall not waive all or part of any objection to the Request.

18. Applicants object to these Requests to the extent they: (i) assume or assert accuracy of facts not established in the above-captioned matter; (ii) assume or assert accuracy of the specific definitions provided with these Requests; and (iii) mislead as to the nature of the

information sought by the Requests by deceptively and improperly using statements in isolation and out of context.

19. Applicants object to the definition of “Applicant’s Designation” and “the Designation” on the grounds that the definition uses the term being defined (“Designation”) as part of the definition, which assumes a prior understanding of the term being defined. The term “Designation” is ambiguous in the context of this action, renders the definition vague and ambiguous and, as incorporated in individual Requests, is overly broad in seeking discovery that is neither relevant to the claims or defenses of any party nor reasonably calculated to lead to the discovery of admissible evidence.

20. Applicants object to definitions/instructions E, F, and J on the grounds that these definitions/instructions call for and/or instruct Applicants to treat these Requests as if they were Interrogatories.

21. The foregoing General Objections are hereby incorporated by reference in each of the following responses by Applicants to these Requests as if such General Objections were set forth verbatim in such response.

RESPONSES AND OBJECTIONS TO FIRST SET OF DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1:

All documents and things requested to be identified in, or used as the basis for, answering Opposers' First Set of Interrogatories to Applicants.

Response to Request No. 1

Applicants object to Request No. 1 by incorporating by reference each General Objection and specific objection made to Opposers' First Set of Interrogatories to Applicants as if they were set forth verbatim in this response. Subject to the General Objections and foregoing objections, and without waiver thereof, Applicants state that no documents responsive to this request have been identified as of this date. This response will be supplemented as deemed appropriate.

DOCUMENT REQUEST NO. 2:

Documents sufficient to identify each type of good advertised, made, distributed, offered for sale or sold by Applicants at any time in connection with the Designation, and the time period each type of good was offered.

Response to Request No. 2

Applicants object to Request No. 2 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." Additionally, there is no temporal limitation to this request. To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 3:

All documents referring to, relating to or reflecting research conducted by Applicants in connection with their selection of the Designation.

Response to Request No. 3

Applicants object to Request No. 3 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 4:

All documents referring to, relating to or reflecting Applicants’ creation, adoption or development of the Designation.

Response to Request No. 4

Applicants object to Request No. 4 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for

hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 5:

Documents that refer, relate to or reflect the sale of goods in connection with the Designation by or on behalf of any of the Applicants, including but not limited to representative purchase orders, invoices and correspondence.

Response to Request No. 5

Applicants object to Request No. 5 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 6:

Documents that refer, relate to or reflect the nature of the goods sold in connection with the Designation by or on behalf of Applicants, for all times that the Designation has been in use.

Response to Request No. 6

Applicants object to Request No. 6 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or

any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, although there is a temporal limitation to this request, it is used in connection with the vague phrase "the Designation," rendering the temporal limitation to be vague and meaningless.

DOCUMENT REQUEST NO. 7:

All licenses, approvals, consents or the like granted to or received by Applicants which refer or relate to goods sold in connection with the Designation.

Response to Request No. 7

Applicants object to Request No. 7 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 8:

All documents referring to, relating to, reflecting or comprising searches or investigations conducted by or on behalf of Applicants concerning the Designation.

Response to Request No. 8

Applicants object to Request No. 8 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 9:

Representative samples of all advertising, informational and promotional materials showing or relating to the Designation.

Response to Request No. 9

Applicants object to Request No. 9 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for

hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers.

DOCUMENT REQUEST NO. 10:

All articles and press releases referring or relating to the Designation.

Response to Request No. 10

Applicants object to Request No. 10 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers.

DOCUMENT REQUEST NO. 11:

All opinions obtained by or on behalf of Applicants in connection with their adoption, application for registration and/or use of the Designation.

Response to Request No. 11

Applicants object to Request No. 11 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible

evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 12:

All documents and things in Applicant’s possession, custody or control which refer or relate in any manner to Opposers or to Opposers’ use of the mark CRONUTS.

Response to Request No. 12

Applicants object to Request No. 12 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, the following term in this request is vague, rendering it ambiguous and not amenable to a meaningful answer: “the mark CRONUTS.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers.

DOCUMENT REQUEST NO. 13:

All documents referring to, relating to, reflecting or comprising past, present and future business plans or market research created or conducted by Applicants relating to goods sold in connection with the Designation.

Response to Request No. 13

Applicants object to Request No. 13 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 14:

Documents sufficient to identify all prior litigations or legal proceedings to which Applicants have been or are a party and that relate to trademarks or service marks of any kind.

Response to Request No. 14

Applicants object to Request No. 14 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this request solicits information concerning “all prior litigations or legal proceedings to which Applicants have been or are a party and that relate to trademarks or service marks of any kind,” which is overly broad and outside the scope of this proceeding. In addition, the following terms in this request are vague, rendering it ambiguous and not amenable to a meaningful answer: “prior litigations” and “legal proceedings.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are

privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Applicants further object that such information is equally accessible to Opposers as it is in the public domain. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants state that they are unaware of any lawsuit concerning its CRONUT mark, U.S. Trademark Application Serial No. 85/936,327, to which they are or have ever been a party.

DOCUMENT REQUEST NO. 15:

Documents sufficient to identify the channels of trade applicable to goods sold in connection with the Designation.

Response to Request No. 15

Applicants object to Request No. 15 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following terms in this request are vague, rendering it ambiguous and not amenable to a meaningful answer: “channels of trade.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 16:

Documents referring to, relating to, or reflecting use of the Designation by affiliates, agents or related companies of Applicants.

Response to Request No. 16

Applicants object to Request No. 16 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible

evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this Request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 17:

Documents sufficient to identify the target customers for Applicant’s goods sold or offered for sale in connection with the Designation.

Response to Request No. 17

Applicants object to Request No. 17 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following terms in this request are vague, rendering it ambiguous and not amenable to a meaningful answer: “target customers.” Additionally, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 18:

Documents that set forth Applicants' unit and dollar volume of sales of goods in connection with the Designation, on an annualized basis.

Response to Request No. 18

Applicants object to Request No. 18 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 19:

Documents that set forth Applicants' unit and dollar volume of sales for each good sold in connection with the Designation, on an annualized basis.

Response to Request No. 19

Applicants object to Request No. 19 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, Duplicative, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as

attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request. In addition, this Request is duplicative and cumulative in that it requests essentially the same information as Request 18.

DOCUMENT REQUEST NO. 20:

Documents that set forth Applicant's advertising and promotional expenses in connection with the Designation, on an annualized basis.

Response to Request No. 20

Applicants object to Request No. 20 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 21:

Documents that show each and every product sold in connection with the Designation as of the claimed dates of first use in Applicants' application to register "cronut" that is the subject of this proceeding.

Response to Request No. 21

Applicants object to Request No. 21 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations

comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 22:

All documents referring to, relating to, reflecting or evidencing confusion, or reverse confusion, including but not limited to misdirect [sic] product inquiries, complaints and articles appearing in the press of any kind, between Applicants’ use of the Designation and Opposers’ use of their CRONUTS trademark.

Response to Request No. 22

Applicants object to Request No. 22 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following terms in this request are vague, rendering it ambiguous and not amenable to a meaningful answer: “misdirect product inquiries,” and “their CRONUTS trademark.” In addition, it is not clear what the clause “of any kind” modifies or relates to. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 23:

One sample of each type of brochure, informational material, packaging and point-of-purchase display, used as of, and since, the claimed dates of first use in Applicants' application to register "cronut" that is the subject of this proceeding.

Response to Request No. 23

Applicants object to Request No. 23 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this request solicits information concerning "each type of brochure, informational material, packaging and point-of-purchase display, used," without regard to a connection to any claim or defense made in this matter, and which includes information that is outside the scope of this matter. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 24:

Documents sufficient to identify all trade shows, and the years thereof, in which Applicant has displayed or advertised goods in connection with the Designation or at which Applicant intends to display or advertise goods in connection with the Designation.

Response to Request No. 24

Applicants object to Request No. 24 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in

order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 25:

All documents referring to, relating to or comprising comments, including complaints and inquiries, about goods sold in connection with the Designation.

Response to Request No. 25

Applicants object to Request No. 25 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 26:

All documents referring or relating to advertising of any kind in connection with the Designation including but not limited to print, broadcast and electronic media.

Response to Request No. 26

Applicants object to Request No. 26 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and

calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 27:

All documents referring or relating to the pricing Applicants charge their customers for goods sold in connection with the Designation.

Response to Request No. 27

Applicants object to Request No. 27 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” Additionally, the “pricing Applicants charge their customers” is wholly irrelevant to any claim or defense made in this matter, and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 28:

Specimens of all advertising and promotional materials: a) created by or on behalf of Applicants for goods sold in connection with the Designation; and, b) actually distributed by Applicants for goods sold in connection with the Designation.

Response to Request No. 28

Applicants object to Request No. 28 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, Work Product, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 29:

All documents upon which Applicant intends to rely in their defense of this proceeding.

Response to Request No. 29

Applicants object to Request No. 29 on the basis of their General Objections, including Harassment, Burden, Vagueness, Work Product, Privilege, Scope and Duplicative Objections. This request is duplicative of other discovery already produced in this matter. Moreover, to the extent this Request seeks proprietary or confidential business information, Applicants also object on the basis of the Confidentiality Objection. Finally, “[t]he Board has held that a party need not specify the evidence it intends to present in support of its case.” See Charrette Corporation v. Bowater Communication Papers, Inc., 13 U.S.P.Q.2D (TTAB 1989); Polaroid Corporation v. Opto Specs, Ltd., 181 USPQ 542 (TTAB 1974); see also, TBMP § 414(7), n. 14.

DOCUMENT REQUEST NO. 30:

All documents that support or negate Applicants' denials in their Answer to the Second Amended Notice of Opposition.

Response to Request No. 30

Applicants object to Request No. 30 on the basis of their General Objections, including Harassment, Burden, Vagueness, Work Product, Privilege, Scope and Duplicative Objections. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Finally, Applicants object to this Request to the extent that it calls for Applicants to produce documents related to allegations for which Applicants are without knowledge or information sufficient to form a belief as to their truth. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 31:

All documents supporting or negating Applicants' "Third Affirmative Defense – Acquired Distinctiveness".

Response to Request No. 31

Applicants object to Request No. 31 on the basis of their General Objections, including Harassment, Burden, Vagueness, Work Product, Privilege, Scope and Duplicative Objections. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. As previously discussed with Opposers' counsel, Applicants will be seeking to amend their Answer to Opposers' Second Notice of Opposition. The Amended Answer will withdraw Applicants' "Third Affirmative Defense," based on the Trademark Trial and Appeal Board's finding that this is merely an amplification of Applicants denials. Therefore it is not reasonably calculated to lead to the discovery of admissible evidence. Documents supporting Applicants' denials are provided in response to Request No. 30 above.

DOCUMENT REQUEST NO. 32:

All documents supporting or negating Applicants' "Fifth Affirmative Defense – Unclean Hands".

Response to Request No. 32

Applicant objects to Request No. 32 on the basis of their General Objections, including Harassment, Burden, Vagueness, Work Product, Privilege, Scope and Duplicative Objections. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants respond by directing Opposers to U.S. Trademark Application No. 85/961,168, which is publicly available at the United States Patent and Trademark Office. This response will be supplemented as deemed appropriate.

DOCUMENT REQUEST NO. 33:

All documents supporting or negating Applicants' "Sixth Affirmative Defense – Opposers' Use is Generic & Descriptive".

Response to Request No. 33

Applicant objects to Request No. 33 on the basis of their General Objections, including Harassment, Burden, Vagueness, Work Product, Privilege, Scope and Duplicative Objections. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. As previously discussed with Opposers' counsel, based upon the Trademark Trial and Appeal Board ruling that this is not a valid affirmative defense, Applicants will be seeking to amend their Answer to Opposers' Second Notice of Opposition. The Amended Answer will withdraw Applicants' "Sixth Affirmative Defense." Therefore, it is not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding the foregoing, documents supporting or negating Applicants denials will be made available for inspection and copying at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 34:

All documents that refer to "cronut" as being a name for a hybrid croissant-donut.

Response to Request No. 34

Applicants object to Request 34 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions,

opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 35:

Copies of all interviews given by Dominique Ansel to the print, electronic and broadcast media, including television programs, in which he refers to "cronut".

Response to Request No. 35

Applicants object to Request No. 35 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitutes the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 36:

Documents showing the appearance of the Designation followed by the federal registration symbol or not, and any changes thereto: a) on the website www.dominiqueansel.com from the date of first use to the present; and b) in any other manner or materials by Applicants.

Response to Request No. 36

Applicants object to Request No. 36 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 37:

All documents referring or relating to “cronut” being a registered trademark.

Response to Request No. 37

Applicants object to Request No. 37 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the

offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 38:

Documents referring or relating to all charges of infringement made by or on behalf of any of the Applicants against users of the designation "cronut" and responses thereto.

Response to Request No. 38

Applicants object to Request No. on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 39:

All documents referring or relating to the past and present use by others of "cronut" as a generic term for a hybrid croissant-donut.

Response to Request No. 39

Applicants object to request No. 39 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants state that they are not aware of any such document.

DOCUMENT REQUEST NO. 40:

All documents referring or relating to the past and present use by others of “cronut” as a descriptive term for a hybrid croissant-donut.

Response to Request No. 40

Applicants object to Request No. 40 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants state that they are not aware of any such document.

DOCUMENT REQUEST NO. 41:

Documents referring or relating to when Applicants first learned of the U.S. Patent and Trademark Office’s cancellation of a registration it issued for CRONUT.

Response to Request No. 41

Applicants object to Request No. 41 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants state that they are not aware of any such document.

DOCUMENT REQUEST NO. 42:

Documents referring or relating to all communications with the U.S. Patent and Trademark Office made by or on behalf of any of the Applicants with respect to a registration that issued for “cronut” and/or the cancellation thereof by the USPTO.

Response to Request No. 42

Applicants object to Request No. 42 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidentiality, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants’ counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 43:

All documents supporting Applicants’ contention in paragraph 12 in their Answer to the Second Amended Notice of Opposition that “on October 3, 2014, the Trademark Trial and Appeal Board dismissed Opposers’ descriptiveness claims”.

Response to Request No. 43

Applicants object to Request No. 43 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidentiality, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants’ counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 44:

All documents referring or relating to Applicants' efforts to remove the federal registration symbol from their use of the Designation as alleged in paragraph 28 of the Answer to Second Amended Notice of Opposition.

Response to Request No. 44

Applicants object to Request 44 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 45:

All documents referring or relating to the application to register CRONUT that is the subject of this proceeding and the prosecution thereof.

Response to Request No. 45

Applicants object to Request No 45 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidentiality, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 46:

All documents referring or relating to statements made by any of the Applicants to others concerning Opposers' claim of earlier first use of CRONUTS as a trademark.

Response to Request No. 46

Applicants object to Request No. 46 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidentiality, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants state that they are not aware of any such document.

DOCUMENT REQUEST NO. 47:

All documents other than the pleadings in this opposition proceeding that refer or relate to communications made by or on behalf of Applicants to the U.S. Patent and Trademark Office that refer to Opposers.

Response to Request No. 47

Applicants object to Request No. 47 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidentiality, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers' knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request. Subject to the General Objections and the foregoing objections, and without waiver thereof, Applicants will make available non-privileged documents responsive to this Request at the offices of Applicants' counsel, Lott & Fischer, PL, 355 Alhambra Circle, Suite 1100, Coral Gables, Florida 33134.

DOCUMENT REQUEST NO. 48:

Documents sufficient to identify all sales outlets where products have been sold in connection with the Designation.

Response to Request No. 48

Applicants object to Request No. 48 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following phrase in this request is vague, rendering it ambiguous and not amenable to a meaningful answer: “sales outlets.” To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, Applicants object to producing documents that are already within Opposers’ knowledge, possession, and/or control, that are publicly available, and/or are obtainable with equal or less effort by Opposers. Additionally, there is no temporal limitation to this request.

DOCUMENT REQUEST NO. 49:

All surveys, market research and consumer reaction studies done with respect to the Designation and/or Opposers’ CRONUTS trademark, and all documents referring or relating thereto.

Response to Request No. 49

Applicants object to Request No. 49 on the basis of their General Objections, including the Harassment, Scope, Burden, Confidential, Privilege, and Work Product Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this Request solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following terms in this request are vague, rendering it ambiguous and not amenable to a meaningful answer: “surveys,” “market research,” and “consumer reaction studies.” Applicants object to the extent that this request calls for Applicants to draw legal conclusions in order to respond. To the extent that this request seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order.

Date: April 17, 2015

Respectfully submitted,

LOTT & FISCHER, PL

s/ Noah H. Rashkind/

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Dominique Ansel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document is being served upon Opposers by delivering a true and correct copy of same to counsel for Opposers via U.S. Mail and a courtesy copy by electronic mail on April 17, 2015 as follows:

Robert B. G. Horowitz, Esquire

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Crystalline Management LLC and Najat Kaanache

s/ Noah H. Rashkind/

Noah H. Rashkind

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Najat Kaanache and
Crystalline Management, LLC,**
Opposers,

v.

**International Pastry Concepts LLC
and Dominique Ansel,**
Applicants.

Opposition No.: 91215813
Application Serial No.: **85/936,327**

Date of Publication: December 10, 2013
Mark: **CRONUT**

**APPLICANTS INTERNATIONAL PASTRY CONCEPTS LLC AND
DOMINIQUE ANSEL'S OBJECTIONS AND RESPONSES TO OPPOSERS'
FIRST SET OF INTERROGATORIES TO APPLICANTS**

Pursuant to Rules 26(b) and 33 of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.120, and TBMP § 405, Applicants International Pastry Concepts LLC ("IPC") and Dominique Ansel ("Ansel") (collectively, "Applicants"), by and through undersigned counsel, hereby object and respond to Opposers Najat Kaanache ("Kaanache") and Crystalline Management, LLC's ("Crystalline") (collectively, "Opposers") First Set of Interrogatories.

GENERAL OBJECTIONS

1. Applicants object to Opposers' Interrogatories to the extent they seek information that is beyond the permissible scope of discovery allowable under the Federal Rules of Civil Procedure and/or the Rules of the Trademark Trial and Appeal Board.

2. Applicants object to Opposers' Interrogatories to the extent they incorporate definitions or rules of construction that differ from those set forth in the Federal Rules of Civil Procedure and/or the Rules of the Trademark Trial and Appeal Board.

3. Applicants object to the definition of “documents” as unduly burdensome, unreasonably cumulative and duplicative, and not likely to lead to the discovery of admissible evidence.

4. Applicants object to Opposers’ Interrogatories to the extent they call for answers that reflect or constitute in full or in part a privileged communication between Attorney and Client (“Privilege Objection”). Applicants do not intend by these responses to waive any claim of privilege or immunity. Applicants’ responses are conditioned specifically on the understanding that the production of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

5. Applicants object to Opposers’ Interrogatories to the extent they call for answers which have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants (“Work Product Objection”). Applicants do not intend by these responses to waive any claim of privilege or immunity. Applicants’ responses are conditioned specifically on the understanding that the production of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

6. Applicants object to Opposers’ Interrogatories to the extent they call for Applicants to take action other than (i) a reasonable and thorough search for responsive information maintained in Applicants’ possession, custody, or control and in locations where such information is most likely to be found; and (ii) a reasonable and thorough inquiry of those persons presently employed by Applicants most likely to have knowledge or information responsive to Opposers’ Interrogatories. Applicants further object to Opposers’ Interrogatories to

the extent they call for information or documents that are not available to Applicants or are equally available to Opposers (“Harassment Objection”).

7. Applicants object to Opposers’ Interrogatories to the extent they call for (i) information which is not within the applicable scope of discovery in this action; or (ii) information which is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence (“Scope Objection”).

8. Applicants object to Opposers’ Interrogatories to the extent they are overly broad, overly inclusive, and/or call for extensive research or investigation that would subject Applicants to annoyance, embarrassment, oppression, or undue burden or expense (“Burden Objection”).

9. Applicants object to Opposers’ Interrogatories to the extent they are vague, indefinite, uncertain, and/or ambiguous and cannot be reasonably answered without further clarification (“Vagueness Objection”).

10. Applicants object to Opposers’ Interrogatories to the extent they seek proprietary or confidential business information of Applicants or call for information that Applicants may not disclose without the consent of third parties. Applicants will only provide such information pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order (“Confidentiality Objection”).

11. Applicants object to Opposers’ Interrogatories to the extent they call for legal conclusions (“Legal Conclusion Objection”).

12. Applicants object to Opposers’ Interrogatories to the extent they seek discovery that is unreasonably cumulative or duplicative of other discovery produced, or that will be produced, by Applicants in this matter (“Duplicative Objection”).

13. Applicants make no incidental or implied admissions of fact by responding to Opposers' Interrogatories below. The fact that Applicants respond to Opposers' Interrogatories herein may not be taken as an admission that Applicants accept the existence of any fact set forth or assumed by the Interrogatory, or that such response constitutes admissible evidence. The fact that Applicants answer all or part of an Interrogatory is not intended, shall not be construed, and shall not waive all or part of any objection to the Interrogatory.

14. Applicants object to Opposers' Interrogatories to the extent they: (i) assume or assert accuracy of facts not established in the above-captioned matter; (ii) assume or assert accuracy of the specific definitions provided with the Interrogatories; and (iii) mislead as to the nature of the information sought by the Interrogatories by deceptively and improperly using statements in isolation and out of context.

15. Applicants object to Opposers' Interrogatories to the extent that they are unlimited in time or otherwise not limited to a time frame relevant to this litigation, and thus overbroad, unduly burdensome, and seek information that is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence.

16. Applicants object to the definition of "Applicant's Designation" and "the Designation" on the grounds that the definition uses the term being defined ("Designation") as part of the definition, which assumes a prior understanding of the term being defined. The term "Designation" is ambiguous in the context of this action, renders the definition vague and ambiguous and, as incorporated in individual Interrogatories, is overly broad in seeking discovery that is neither relevant to the claims or defenses of any party nor reasonably calculated to lead to the discovery of admissible evidence.

17. The responses to Opposers' Interrogatories are made without in any way waiving, but rather, intending to preserve and preserving (i) all objections by Applicants as to competency, relevancy, materiality, and admissibility of the answers or the subject matter thereof; (ii) all rights of Applicants to object on any grounds to use of said responses, or the subject matter thereof in any proceeding, including the hearing or trial of this or any other action; and (iii) all rights of Applicants to object on any grounds to requests for further responses to these or any other Interrogatories or other discovery requests, involving or relating to the subject matter of Opposers' Interrogatories.

18. Applicants reserve the right to modify, supplement, and/or amend any or all of its responses and objections to Opposers' Interrogatories.

19. The foregoing General Objections are hereby incorporated by reference in each of the following responses by Applicants to Opposers' Interrogatories as if such General Objections were set forth verbatim in such response.

RESPONSES AND OBJECTIONS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Identify each and every good sold by Applicants in association with the Designation at any time, state the time periods during which each such good was sold in connection with the Designation, and identify all individuals having knowledge thereof.

Response No. 1:

Applicants object to Interrogatory No. 1 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this interrogatory solicits information concerning the “identity of all individuals having knowledge thereof,” which is overly broad, harassment, and unduly burdensome because it requests that Applicant conduct more than a reasonable and thorough search for responsive information maintained in Applicants’ possession, custody, or control and in locations where such information is most likely to be found, including a reasonable and thorough inquiry of those persons presently employed by Applicants most likely to have knowledge or information responsive to this interrogatory. Applicants further object to this interrogatory to the extent that it calls for information that is not available to Applicants or are equally available to Opposers. Finally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 2:

Identify all sales outlets from which Applicants sell or have sold goods in connection with the Designation, including but not limited to the approximate size of such sales outlets, the nature and geographic locations of such sales outlets, whether such sales outlets are operated under the Designation, and the date(s) such sales outlets sold such goods.

Response No. 2:

Applicants object to Interrogatory No. 2 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this

proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following phrase in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: “sales outlets.” Finally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 3:

Identify the actual and intended purchasers of goods sold by Applicants in connection with the Designation.

Response No. 3:

Applicants object to Interrogatory No. 3 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” See also Johnston Pump/General Valve Inc. v. Chromalloy American Corp., 10 USPQ2d 1671, 1675 (TTAB 1988) (need not reveal names of customers including dealers). Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 4:

Separately for each of the goods in connection with which the Designation has been used, state whether there has been any interruption in the use of the Designation by Applicants and state the dates of interruption and resumption of use, if any.

Response No. 4:

Applicants object to Interrogatory No. 4 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following phrase in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: “any interruption in the use” and “interruption and resumption of use.” Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 5:

State on an annualized basis the amount of Applicants' unit and dollar volume of sales of goods sold in association with the Designation.

Response No. 5:

Applicants object to Interrogatory No. 5 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." Additionally, there is no temporal limitation to this interrogatory. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 6:

State the amount yearly since the first use of the Designation of Applicants' advertising and promotional expenditures in connection with the Designation for each good identified in the application that is the subject of this proceeding.

Response No. 6:

Applicants object to Interrogatory No. 6 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, the following phrase in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: "each good identified in the application that is the subject of this proceeding." Additionally, there is no temporal limitation to this interrogatory. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 7:

State the projected amount yearly, for the next three fiscal years, of Applicants' projected advertising and promotional expenditures in connection with the designation for each good identified in the application that is the subject of this proceeding.

Response No. 7:

Applicants object to Interrogatory No. 7 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, the following phrase in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: "each good identified in the application that is the subject of this proceeding." Additionally, there is no temporal limitation to this interrogatory. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 8:

State all methods of advertising and promotion in [sic] Applicants have used in connection with the Designation and the period each such method was used.

Response No. 8:

Applicants object to Interrogatory No. 8 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." Additionally, there is no temporal limitation to this interrogatory. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 9:

Identify the individual(s) responsible for the creation and/or adoption of the Designation by or on behalf of each Applicant and state the dates of such creation and/or adoption.

Response No. 9:

Applicants object to Interrogatory No. 9 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Privilege, Work Product, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order.

INTERROGATORY NO. 10:

Identify all individual(s) involved in the decision to adopt the Designation and information relied upon by said individual(s) in making that decision.

Response No. 10:

Applicants object to Interrogatory No. 10 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Privilege, Work Product, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. To the extent that this interrogatory seeks proprietary or

confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 11:

State whether any of the individuals responsible for the adoption of Applicants' Designation were aware of the CRONUTS trademark for sweet and savory donuts at the time the Designation was adopted.

Response No. 11:

Applicants object to Interrogatory No. 11 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Privilege, Work Product, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. In addition, the following phrase in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: "the CRONUTS trademark." Additionally, this Interrogatory assumes or asserts statements that are not factually accurate.

INTERROGATORY NO. 12:

Describe the circumstances surrounding the creation and/or adoption of the Designation by Applicants, and identify the reason(s) and purpose for Applicants' adoption of the Designation.

Response No. 12:

Applicants object to Interrogatory No. 12 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Privilege, Work Product, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or

trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications.

INTERROGATORY NO. 13:

Set forth in detail all facts and reasons supporting Applicants' assertion in their Sixth Affirmative Defense to the Second Amended Notice of Opposition that CRONUTS as applied to Opposers' goods is generic or, alternatively, descriptive.

Response No. 13:

Applicants object to Interrogatory No. 13 on the basis of its General Objections, including the Harassment, Scope, Burden, and Privilege Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information that assumes or asserts facts not established in the above-captioned matter, namely, that Applicants asserted in their Sixth Affirmative Defense to the Second Amended Notice of Opposition, "that CRONUTS as applied to Opposers' goods is generic or, alternatively, descriptive." As previously discussed with Opposers' counsel, based upon the Trademark Trial and Appeal Board ruling that this is not a valid affirmative defense, Applicants will be seeking to amend their Answer to Opposers' Second Notice of Opposition. The Amended Answer will withdraw Applicants' "Sixth Affirmative Defense." On the basis of the Trademark Trial and Appeal Board ruling, this request is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 14:

Identify all individuals and entities who have assisted or will assist Applicants in connection with the advertising, promotion or use of the Designation.

Response No. 14:

Applicants object to Interrogatory No. 14 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this interrogatory seeks proprietary or confidential business information,

Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order.

INTERROGATORY NO. 15:

State any and all efforts made by Applicants to determine whether the Designation could legally be used in connection with the goods described in Applicants' trademark application that is the subject of this proceeding, including but not limited to the conducting of any trademark searches or seeking of legal advice.

Response No. 15:

Applicants object to Interrogatory No. 15 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Work Product, Privilege, Confidentiality, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this proceeding," which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term "Designation." To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this interrogatory calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 16:

Describe in detail all instances of actual confusion or reverse confusion known to Applicants about the source of Opposer's CRONUTS goods and any goods sold or services rendered by Applicant in connection with the Designation.

Response No. 16:

Applicants object to Interrogatory No. 16 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning "any and all designations comprising 'cronut' alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants' trademark application which is the subject of this

proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following term in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: “Opposer’s CRONUTS goods.” Applicants object to the extent that this interrogatory calls for Applicants to draw legal conclusions in order to respond. Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 17:

Identify and describe the channels of advertising, promotion and trade in the United States for each of the goods Applicants sells in connection with the Designation.

Response No. 17:

Applicants object to Interrogatory No. 17 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, the following term in this interrogatory is vague, rendering it ambiguous and not amenable to a meaningful answer: “channels of advertising, promotion and trade.” To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board’s Standard Protective Order. Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 18:

Identify each and every use of the federal registration symbol by Applicants in connection with the Designation, when each and every use ceased, and the reasons for such use and cessation of use as well as persons having knowledge thereof.

Response No. 18:

Applicants object to Interrogatory No. on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, Privilege, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define

the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this interrogatory calls for Applicants to draw legal conclusions in order to respond. In addition, this interrogatory solicits information concerning the identify of “persons having knowledge thereof,” which is overly broad, harassment, and unduly burdensome because it requests that Applicant conduct more than a reasonable and thorough search for responsive information maintained in Applicants’ possession, custody, or control and in locations where such information is most likely to be found, including a reasonable and thorough inquiry of those persons presently employed by Applicants most likely to have knowledge or information responsive to this interrogatory. Applicants further object to this interrogatory to the extent that it calls for information that is not available to Applicants or are equally available to Opposers. Additionally, there is no temporal limitation to this interrogatory.

INTERROGATORY NO. 19:

Identify each and every past and current user of “cronut” as a designation for a hybrid croissant-donut known to Applicants, any and all actions taken by either of the Applicants against such users, and identify all persons who took those actions.

Response No. 19:

Applicants object to Interrogatory No. 19 on the basis of its General Objections, including the Harassment, Scope, Burden, Vagueness, Confidentiality, Privilege, and Legal Conclusion Objections. This request is overly broad and burdensome and it seeks information that is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, this interrogatory solicits information concerning “any and all designations comprising ‘cronut’ alone or in combination with another designation, element or component, or any similar designation, including but not limited to the mark set forth in the Applicants’ trademark application which is the subject of this proceeding,” which is vague, ambiguous, and calls for Applicants to draw legal conclusions in order to respond because Opposers never define the term “Designation.” In addition, this request calls for information which would have been prepared or obtained either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for Applicants that are protected from disclosure as work product and are privileged as attorney-client communications. Applicants object to the extent that this interrogatory calls for Applicants to draw legal conclusions in order to respond. Applicants object to the extent that this interrogatory calls for Applicants to draw legal conclusions in order to respond. In addition, this interrogatory solicits information concerning the identify of “each and every past and current user of ‘cronut’” which is overly broad, harassment, and unduly burdensome because it requests that Applicant conduct more than a reasonable and thorough search for responsive information maintained in Applicants’ possession, custody, or control and in locations where such information is most likely to be found, including a reasonable and thorough inquiry of those persons presently employed by Applicants most likely to have knowledge or information responsive to this

interrogatory. To the extent that this interrogatory seeks proprietary or confidential business information, Applicants will only provide such information, if it exists, pursuant to the Trademark Trial and Appeal Board's Standard Protective Order. Additionally, there is no temporal limitation to this interrogatory.

[signature on following page]

Date: April 17, 2015

Respectfully submitted,

LOTT & FISCHER, PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document is being served upon Opposers by delivering a true and correct copy of same to counsel for Opposers via U.S. Mail and a courtesy copy by electronic mail on April 17, 2015 as follows:

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